

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CUMBERLAND CELLULAR)	
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A CELLULAR CELL SITE (WHITLEY CITY))	95-154
IN RURAL SERVICE AREA #5 (MCCREARY) OF THE)	
COMMONWEALTH OF KENTUCKY)	

O R D E R

On April 17, 1995, Cumberland Cellular Partnership ("Cumberland Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications tower in Rural Service Area Number 5 ("RSA No. 5"). RSA No. 5 includes Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalf, Monroe, Russell and Wayne counties. Cumberland Cellular has requested authorization to construct a cell site in McCreary County. Cumberland Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 5 in Case No. 91-180.¹

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located off Pine Ridge Road near Route 701, Whitley City, McCreary County, Kentucky ("the Whitley City cell

¹ Case 91-180, In the Matter of the Joint Application of GTE Mobilnet Incorporated and Cumberland Cellular Partnership for Approval of the Transfer of Ownership and Control of the Certificate of Public Convenience and Necessity Granted to GTE Mobilnet Incorporated in Case No. 90-306 to Cumberland Cellular Partnership.

site"). The coordinates for the Whitley City cell site are North Latitude 36° 42' 44.8" by West Longitude 84° 29' 53.3".

Cumberland Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Whitley City cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Whitley City cell site's construction is exempt from local zoning ordinances; however, Cumberland Cellular has notified the McCreary County Judge/Executive. Cumberland Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") for the construction and operation of the Whitley City cell site. The FAA has approved the site while the KAZC application is still pending.

Cumberland Cellular has notified all persons who own property or who reside within 500 feet of the Whitley City cell site. The notice solicited comments and informed the property owners and residents of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or

insufficient. To assist the Commission in its efforts to comply with this mandate, Cumberland Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Cumberland Cellular.


The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cumberland Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Whitley City cell site in RSA No. 5 under its previously approved tariff.


IT IS THEREFORE ORDERED that:

1. Cumberland Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Whitley City cell site.
2. Cumberland Cellular shall file a copy of the final decision regarding its pending KAZC application for this cell site construction within 10 days of receiving this decision.
3. Cumberland Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 25th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director